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03-MC-00201-CERT

MS03 201

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WRITERS GUILD OF AMERICA, WEST, INC.,
A California corporation,

Plaintiff(s)

v.
ALBERT BAND INTERNATIONAL
PRODUCTION, INC. and FULL MOON
ENTERTAINMENT, INC.,

Defendant(s)

CASE NUMBER:

CV 98-3377 MMM (RNBx)

CERTIFICATION OF JUDGMENT FOR
REGISTRATION IN ANOTHER DISTRICT

I, Sherri R. Carter, Clerk of this United States District Court certify that the attached judgment is a true and correct copy of the original judgment entered in this action on June 3, 1998 as it appears in the record of this court, and that * (see below)
NO NOTICE OF APPEAL FROM THIS JUDGMENT HAS BEEN FILED, AND NO MOTION OF ANY KIND LISTED IN RULE 4(a) OF THE FEDERAL RULES OF APPELLATE PROCEDURE HAS BEEN FILED.

IN TESTIMONY WHEREOF, I sign my name and affix the seal of this Court on

November 18, 2003
Date

FILED
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MAIL

NOV 28 2003

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

SHERRI R. CARTER

CLERK, U.S. DISTRICT COURT

By: [Signature]
Deputy Clerk

* Insert the appropriate language:

"no notice of appeal from this judgment has been filed, and no motion of any kind listed in Rule 4(a) of the Federal Rules of Appellate Procedure has been filed."

"no notice of appeal from this judgment has been filed, any motions of the kinds listed in Rule 4(a) of the Rules of Appellate Procedure [*] have been disposed of, the latest order disposing of such a motion having been entered on [date]."

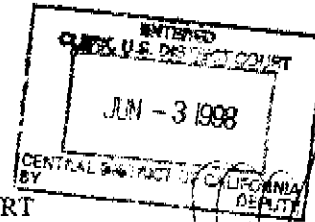
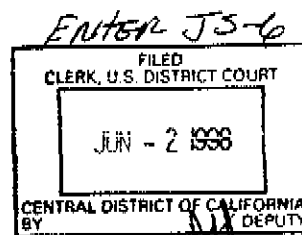
"an appeal was taken from this judgment and this judgment was affirmed by mandate of the Court of Appeals issued on [date]."

"An appeal was taken from this judgment and the appeal was dismissed by order entered on [date]."

[NOTE: The motions listed in Rule 4(a), Fed.R.App.P., are motions: for judgment notwithstanding the verdict; to amend or make additional findings of fact; to alter or amend the judgment; for a new trial; and for an extension of time for filing a notice of appeal.]

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL, POSTAGE PREPAID, TO ALL COUNSEL
FOR PARTIES AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
RECORD IN THIS ACTION ON THIS DATE.

DATE: 6/2/98
David J. Fursten
DEPUTY CLERK



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WRITERS GUILD OF AMERICA,
WEST, INC., a California corporation,

Petitioner,

vs.

ALBERT BAND INTERNATIONAL
PRODUCTIONS, INC. and FULL
MOON ENTERTAINMENT, INC.,

Respondents.

CASE NO. CV 98-3377 MMM (RNBx)

JUDGMENT CONFIRMING
ARBITRATION AWARD

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Writers Guild of America, West, Inc. ("Writers Guild") filed its petition for an order confirming the arbitration award entered in its favor and against respondents Albert Band International Productions, Inc. and Full Moon Entertainment, Inc. on May 1, 1998. Simultaneously, the Writers Guild noticed a hearing on its motion for confirmation of the award for June 1, 1998. The petition and motion were duly served on respondents, who filed no opposition to the motion and made no appearance in the action. The Court having considered the pleadings and documents on file in the action, and having heard argument of counsel,

IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered in this

JUN 3 1998

1 proceeding as follows:

2 1. The Arbitration Award in Arbitration Case No. 94-RE-036 dated October 30, 1997, and
3 signed by Louis M. Zigman, Sole Neutral Arbitrator, is confirmed in all respects. Arbitrator
4 Zigman's Award, attached hereto as Exhibit "A," is incorporated in and made a part of this
5 judgment.

6 2. The Court finds that respondents' refusal to abide by the arbitrator's award was an
7 unjustified act undertaken in bad faith. The Court bases this finding on the following facts: The
8 Arbitration Award reflects that respondents received proper notice of the arbitration proceedings,
9 but failed to appear and participate in them. Evidence produced by the Writers Guild reveals that,
10 on November 5, 1997, respondents were served with a copy of the award, and a demand that they
11 pay the amounts awarded by the arbitrator. As of the date of the filing of this action, respondents
12 had failed in any manner to comply with the provisions of the award or to challenge its validity by
13 filing a petition to vacate or modify the award. Although served with the Writers Guild's petition
14 and motion in this action, respondents failed to appear and oppose entry of a judgment confirming
15 the award. These circumstances give rise to an inference that respondents do not contest their
16 liability for the amounts awarded by the arbitrator, but rather simply refuse to honor their
17 obligations under the collective bargaining agreement and the arbitration award rendered pursuant
18 to its terms. See *Sheet Metal Workers' International Ass'n. Local Union No. 359 v. Madison*
19 *Industries, Inc. of Arizona*, 84 F.3d 1186, 1192 (9th Cir. 1996) [noting district court's finding that
20 it was significant that respondent "simply refused to honor the award rather than filing a petition
21 to vacate it," and upholding an award of attorney's fees]; *International Union of Petroleum and*
22 *Industrial Workers v. Western Industrial Maintenance, Inc.*, 707 F.2d 425, 428-29 (9th Cir. 1983)
23 [party's refusal to satisfy the clear terms of the arbitration award "gave rise to the necessity to
24 petition the district court for enforcement of that right with the attendant delay and expense"].

25 3. Because it finds that respondents' failure to abide by the terms of the Arbitration Award
26 was unjustified and in bad faith, the Writers Guild is awarded its reasonable attorney's fees in the
27 amount of \$1,200.00.

28

1 4. The Writers Guild is awarded its costs incurred in bringing this action in the amount of
2 \$150.00.

3
4 Dated: June 1, 1998


MARGARET M. MORROW
UNITED STATES DISTRICT JUDGE

BEFORE THE WRITERS GUILD OF AMERICA, WEST, INC. - PRODUCERS
ARBITRATION TRIBUNAL

In the Matter of the Arbitration between
WRITERS GUILD OF AMERICA, WEST, INC.,

ARBITRATOR'S
OPINION AND AWARD

Complainant,

vs.

ALBERT BAND INTERNATIONAL PRODUCTIONS, INC.
and FULL MOON ENTERTAINMENT, INC.,

CASE NO. 94-RE-036

Respondents.

Relating to unpaid residual compensation in
connection with the theatrical motion
pictures entitled "CRASH AND BURN" and
"SHADOWZONE."

OPINION

The above-entitled arbitration case was heard before Louis
Zigman, the sole neutral arbitrator, on October 29, 1997 at the
offices of the Writers Guild of America, west, Inc. at 7000 West
Third Street, Los Angeles, California 90048. Mark Mitchell,
Associate Counsel of the Writers Guild of America, west, Inc.
("Complainant" or "WGA"), appeared on behalf of the WGA.
Respondents Albert Band International Productions, Inc. and Full
Moon Entertainment, Inc. ("Respondents"), did not appear.

All notices required by the WGA Theatrical and Television
Minimum Basic Agreement ("MBA") in connection with this arbitration
claim were duly served on Respondents.

//

EXHIBIT "A"

cc940361shadow.wg

1 Pursuant to MBA Articles 10.D, 11.A.4 and 11.C.6.b, the
2 arbitration proceeded as noticed. Oral and documentary evidence
3 were presented by Complainant.

4 The Arbitrator has considered all of the oral and documentary
5 evidence presented at the hearing and based thereon and upon the
6 provisions of the 1988 MBA, makes the following Findings of Fact,
7 Opinion and Award:

8 FINDINGS OF FACT

9 The case is properly before the Arbitrator. Respondents
10 Albert Band International Productions, Inc. and Full Moon
11 Entertainment, Inc. were duly notified and properly served with the
12 Notice of Arbitration Hearing and the Notice of Claim and Claim.

13 Respondent Albert Band International Productions, Inc. is
14 signatory to the 1988 Writers Guild of America Theatrical and
15 Television Basic Agreement. By means of assumption agreements,
16 Respondent Full Moon Entertainment, Inc. assumed MBA obligations
17 with regard to the theatrical motion pictures "Crash and Burn" and
18 "Shadowzone" (the "Pictures.") Albert Band International
19 Productions, Inc. and Full Moon Entertainment are jointly and
20 severally liable for the amounts claimed.

21 During the term of the 1988 MBA, Respondents produced or
22 caused to be produced the Pictures. Respondents released the
23 Pictures to various supplemental markets, including but not limited
24 to, video cassettes, pay television and free television.

25 Article 51 of the MBA requires Respondents to pay residual
26 compensation on behalf of writer J.S. Cardone (the "Credited
27 Writer") for distribution of the Pictures on video cassettes
28 ("Video Cassette Residuals") in an amount totaling one and one-half

1 percent (1.5%) of the Producer's gross on the first one million
2 dollars and one and eight-tenths percent (1.8%) of Producer's gross
3 if the gross derived from distribution of the Pictures on video
4 cassettes exceeds one million dollars. Respondents have not paid
5 Video Cassette Residuals which are currently owed in the amount of
6 \$11,905 as to "Crash and Burn" and in the amount of \$11,063.08 as
7 to "Shadowzone."

8 Article 51 of the MBA also requires Respondents to pay
9 residual compensation to the WGA on behalf of the Credited Writer
10 in an amount totaling one and two-tenths percent (1.2%) of
11 Respondents' accountable receipts derived from distribution of the
12 Pictures to pay television ("Pay TV Residuals"). Respondents have
13 not paid Pay TV Residuals which are currently owed in the amount of
14 \$302.88 as to "Crash and Burn" and in the amount of \$1,000.44 as to
15 "Shadowzone."

16 Article 15.A.3. of the MBA also requires Respondents to pay
17 residual compensation to the WGA on behalf of the Credited Writer
18 in an amount totaling one and two-tenths percent (1.2%) of
19 Respondents' accountable receipts derived from distribution of the
20 Pictures to free television ("Free TV Residuals"). Respondents
21 have not paid Free TV Residuals which are currently owed in the
22 amount of \$2,348.06 as to "Crash and Burn" and in the amount of
23 \$2,277.41 as to "Shadowzone."

24 Articles 51.3.f and 15.A.3.f. of the MBA require Respondents
25 to pay interest on unpaid residual compensation at the rate of one
26 and one-half percent (1.5%) per month, commencing to accrue when
27 the payments were due and continuing to accrue until paid in full.
28 Respondents must pay interest on the unpaid residual compensation

1 which, to date, amounts to \$17,897.69 for "Crash and Burn" and in
2 the amount of \$18,498.31 for "Shadowzone."

3 Articles 51.3.f and 15.A.3.f. of the MBA require Respondents
4 to furnish or cause to be furnished to the WGA, on a quarterly
5 basis and no later than sixty (60) days following the end of a
6 calendar quarter, a written report showing the Producer's gross
7 receipts for the preceding quarter from distribution of a
8 theatrical motion picture. The evidence established that not all
9 such reports have been furnished by the Respondents to the WGA
10 regarding the Pictures. Failure to file the required reports is a
11 material breach of the MBA.

12 AWARD

13 Based upon the foregoing, the Arbitrator makes the following
14 Order:

15 1. Respondents Albert Band International Productions, Inc.
16 and Full Moon Entertainment, Inc. are ordered, jointly and
17 severally, to pay immediately to the WGA on behalf of the Credited
18 Writer Fourteen Thousand Five Hundred Fifty-Five Dollars and
19 Ninety-Four Cents (\$14,555.94) residuals for distribution of "Crash
20 and Burn" to videocassette, pay television and free television
21 through the third quarter of 1996;

22 2. Respondents Albert Band International Productions, Inc.
23 and Full Moon Entertainment, Inc. are ordered, jointly and
24 severally, to pay immediately to the WGA on behalf of the Credited
25 Writer Seventeen Thousand Eight Hundred Ninety-Seven Dollars and
26 Sixty-Nine Cents (\$17,897.69) in accrued interest on the unpaid
27 residual compensation concerning "Crash and Burn." Interest
28 continues to accrue on the unpaid principal at the rate of one and

1 one-half percent (1.5%) per month, from November 1, 1997 until the
2 residuals are paid in full.

3 3. Respondents Albert Band International Productions, Inc.
4 and Full Moon Entertainment, Inc. are ordered, jointly and
5 severally, to pay immediately to the WGA on behalf of the Credited
6 Writer Fourteen Thousand Three Hundred Forty Dollars and Ninety-Two
7 Cents (\$14,340.92) in residuals for distribution of "Shadowzone" to
8 videocassette, pay television and free television through the third
9 quarter of 1996;

10 4. Respondents Albert Band International Productions, Inc.
11 and Full Moon Entertainment, Inc. are ordered, jointly and
12 severally, to pay immediately to the WGA on behalf of the Credited
13 Writer Eighteen Thousand Four Hundred Ninety-Eight Dollars and
14 Thirty-One Cents (\$18,498.31) in interest on the unpaid residual
15 compensation concerning "Shadowzone," plus continuing interest at
16 the rate of one and one-half percent (1.5%) per month, from
17 November 1, 1997 until the unpaid residuals are paid in full.

18 5. Respondents Albert Band International Productions, Inc.
19 and Full Moon Entertainment, Inc. are ordered, jointly and
20 severally, to immediately furnish to the WGA written reports
21 showing the Producer's gross receipts, as defined in the MBA, from
22 the distribution of the Pictures on videocassette, pay television
23 and free television.

24 6. The WGA is assigned the right to receive all monies owed
25 to Respondents by any third party, subject to any prior perfected
26 security agreement in favor of another party, until the amounts
27 awarded herein are paid in full. Respondents are hereby ordered to
28 give, or the WGA at its election may give, notice to appropriate

